

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2010040673

ORDER DENYING REQUEST FOR  
CONTINUANCE

On January 3, 2011, the parties filed a fourth request for a continuance, which, except for providing dates for hearing, is nearly identical to the December 30, 2010 request for continuance that was denied. The continuance request seeks hearing dates in May of 2011, more than one year after the due process hearing request was filed, and one year after the parties first attended mediation. The reason given for the request is that the parties want to conduct assessments in April of 2011 under an interim agreement for assessments that was reached in September of 2010.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH has reviewed the request for good cause and the request is denied. Good cause for a continuance of this length has not been shown. Student presumably had a factual basis for the due process hearing request at the time it was filed. The due process hearing request has been reviewed and the parties have failed to demonstrate how assessments conducted in 2011 would be relevant to resolving eligibility and services issues dating back to 2008. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: January 04, 2011

/s/

RICHARD T. BREEN

Presiding Administrative Law Judge (acting)  
Office of Administrative Hearings